Additional Emergency Relief Program (August 18, 2022)

Why are there 2 phases for ERP?

The two-phased process allows FSA to continue to evaluate and identify the impacts of 2020 and 2021 natural disasters on diversified, row crop and specialty crop operations and expedite distribution of much-needed emergency relief program benefits. Phase 1 was implemented to expedite assistance to producers with crop insurance and NAP coverage by using existing Risk Management Agency (RMA) and FSA claim data. Phase 2 will compensate eligible producers not paid under Phase 1 for their eligible losses, including those that may have had crop insurance or NAP, but the loss was not large enough to trigger an indemnity and address any other gaps or areas impacted by the 2020 and 2021 natural disasters.

What is ERP Phase 1?

ERP Phase 1 will use a streamlined process with pre-filled application forms and provide payments for crop production losses and tree, bush, and vine losses in certain situations where the claim data is already on file with FSA or the RMA, as a result of the producer previously receiving a Noninsured Crop Disaster Assistance Program (NAP) payment or a crop insurance indemnity under certain crop insurance policies.

What is ERP Phase 2?

ERP Phase 2 will be for all eligible producers that experienced an eligible loss that did not receive a payment under Phase 1. This includes shallow losses, uninsured

crops, and quality losses not accounted for in Phase 1.

Am I eligible for Phase 1 and Phase 2 payments?

Producers who apply for payment under ERP Phase 1 may also apply under ERP Phase 2; however, payments under ERP Phase 2 will take into account any amounts received for the crop and unit under ERP Phase 1. ERP Phase 2 provisions will be specified in a future announcement.

If I received a letter for Phase 1, am I automatically eligible for a disaster payment?

No, before an ERP payment can be made producers are responsible for confirming and certifying that the indemnities shown on the letter are a result of a qualifying disaster event. Qualifying disaster events include wildfires, hurricanes (including related excessive wind, storm surges, tornado, tropical storms, and tropical depression), floods (including related silt and debris), derechos (including related excessive wind), excessive heat, winter storms (including related blizzard and excessive wind), freeze (including a polar vortex), smoke exposure, excessive moisture, and qualifying drought occurring in calendar years 2020 and 2021. Related conditions must have occurred as a direct result of the indicated disaster event. “Qualifying drought” includes only those counties in which the drought intensity was rated by the U.S. Drought Monitor as having a D2 (severe drought) for eight consecutive weeks or a D3 (extreme drought) or higher level at any point during the applicable calendar year.

When will pre-filled ERP Phase 1 applications be mailed?

Pre-filled applications for ERP Phase 1 will be mailed in late May 2022. We will share the exact date online here on the Emergency Relief webpage once the date is confirmed.

Do I have to submit my ERP application to an FSA County Office?

Producers wanting to receive payment under Phase 1 need to submit the application to an FSA county office. Applications can be accepted by fax, email, or submitted in person, to an FSA County Office.

Who must sign the ERP application?

All producers certifying to a share on the ERP application must sign the application to receive a payment.

What if I am the primary crop insurance policy holder with other Substantial Beneficial Interests (SBI) listed on my application and I have designated SBI shares, but am not able to collect all SBI signatures on my ERP application?

The ERP application will be considered incomplete.

If I don't agree with the pre-filled information on my application what should I do?

Contact your crop insurance agent for questions regarding crop insurance information. Contact your FSA office for questions regarding NAP information.

What eligibility forms must be submitted to the FSA County Office prior to receiving an ERP payment?

Eligibility forms include the **AD-2047** *Customer Data Worksheet* (if applicable), the **CCC-902** *Farm Operating Plan for Payment Eligibility*, the **CCC-901** *Member*

Information for Legal Entities (if applicable), and the **AD-1026** *Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification*.

Many producers, especially if they have participated in FSA programs recently, will already have these forms on file with FSA. Producers who are unsure of whether a form is on file may contact their local FSA service center.

Also, certain producers will also need to submit the following forms to qualify for an increased payment rate or payment limitation, Form **CCC-860**, *Socially Disadvantaged, Limited Resource, Beginning and Veteran Farmer or Rancher Certification,* applicable for the program year or years for which the producer is applying for ERP; or Form **FSA-510**, *Request for an Exception to the $125,000 Payment Limitation for Certain Programs,* accompanied by a certification from a certified public accountant or attorney as to that person or legal entity's certification, for a legal entity and all members of that entity, for each applicable program year.

FSA will continue to accept forms CCC-860 and FSA-510 from producers for the purpose of establishing eligibility for an increased payment rate or payment limitation until the deadline.

How do I know if the indemnity received was due in whole or in part by a qualifying disaster event?

For crop insurance, contact your crop insurance agent to verify the disaster event that affected your crop. For NAP crops, contact your FSA office to verify the disaster event that affected your crop. Also, for drought related events, the drought index link can be used to help consider eligibility.

- 2020 drought counties eligible for ERP
- 2021 drought counties eligible for ERP

I had crop insurance and had a loss on a crop that has not been paid yet, am I still eligible for Phase 1?

The data used to populate the initial Phase 1 letter included claim data on file with RMA as of May 2, 2022. In late summer 2022, updated claim information will be used to generate a second letter for those crop/units not included in the initial letter.

I had crop insurance in 2021 and was indemnified for a qualifying disaster event but did not receive a letter or the letter did not include all of my affected crop/units. Am I still eligible for Phase 1?

The data used to populate the initial Phase 1 letter included claim data on file with RMA as of May 2, 2022. At that time, claim data for the Supplemental Coverage Option (SCO), Enhanced Coverage Option (ECO), Stacked Income Protection Plan (STAX), Margin Protection Plan, (MP) or Area Risk Protection Insurance (ARPI) was not complete and crop/units including these coverages were not included in the initial Phase 1 letter. If you did not have coverage under SCO, ECO, STAX, MP, or ARPI, contact your crop insurance agent to ensure your claim information was submitted to RMA by your approved insurance provider. In late summer 2022, updated claim information will be used to generate a second letter for those crop/units not included in the initial letter.

Why did my neighbor receive an ERP application and I did not?

Only producers who received an indemnity as determined by RMA under certain crop insurance policies or a payment for NAP received an application for Phase 1.

When will I receive my payment after I have submitted my complete ERP application?

The ERP payment will be processed after all eligibility forms have been received and the FSA representative has signed and certified the payment.

I am a NAP producer and didn't receive an ERP application. When will I receive my ERP application?

Pre-filled application forms for NAP producers will be mailed late summer 2022.

What if I lost my ERP application or did not receive my ERP application in the mail?

The FSA Office can reprint an application to be completed.

How do I receive a higher payment limitation?

Complete Form FSA-510, Request for an Exception to the $125,000 Payment Limitation for Certain Programs, to request an exception to the ERP payment limitation.

What is the ERP enrollment deadline?

Applications need to be turned into your local FSA office by July 22, 2022.

Am I required to purchase crop insurance or NAP in the future if I receive an ERP payment?

Yes, any applicant that receives an ERP payment must agree to purchase crop insurance or NAP, as applicable, for the next 2 available crop years, as determined by the Secretary. Availability will be determined from the date a producer receives an ERP payment and may vary depending on the timing and availability of crop insurance or NAP for a producer’s particular crops. The final crop year to purchase crop insurance or NAP coverage to meet the second year of coverage for this requirement is the 2026 crop year. For crop insurance you must agree to purchase at the 60/100 coverage level or higher, and for NAP agree to purchase coverage at

the catastrophic level or higher.

I no longer farm; do I still need to agree to purchase crop insurance or obtain NAP coverage on the ERP application?

Yes, all participants must agree to purchase coverage in order to receive an ERP payment. However, producers who were paid under ERP Phase 1 for a crop in a county, but do not plant that crop in that county in a year for which this requirement applies, are not subject to the crop insurance or NAP purchase requirement for that year.

If I received an ELAP payment for aquaculture, will I receive an ERP Phase 1 payment?

ERP Phase 1 will not include losses to aquacultural species that were compensated under the Emergency Assistance for Livestock, Honeybees, and Farm-raised Fish Program (generally referred to as ELAP).

Will quality be included under Phase 1?

ERP Phase 1 is only including those quality conditions as recognized under the insurance policy and does not include possible further adjustments. Further adjustments for quality beyond what is covered under the insurance policy will be covered under Phase 2.

Can my crop insurance agent tell me if I experienced a qualifying disaster event?

Your crop insurance agent should be able to provide you information regarding your crop insurance claim and any documentation supporting that claim. For many, this documentation may directly relate to a qualifying disaster event under ERP. However, your crop insurance claim documentation by itself does not disqualify you

from being eligible under ERP as it may not capture or document all qualifying disaster events impacting your production. You as the producer are responsible for certifying to a portion of your loss being attributed to a qualifying disaster event.

What ERP factor will be considered for policies with Margin Protection?

Producers will get credit for the higher of their Margin Protection coverage level and underlying policy (e.g., Revenue Protection) coverage level. For example, if the underlying coverage level had 70% and Margin Protection was elected at 85%, then 85% is used and the ERP factor is 95%. Producers with a standalone Margin Protection policy are not included in Phase 1.

Is there an unharvested factor consideration?

The FSA unharvested factors do not apply to crop insurance policies under Phase 1 as the crop insurance terms are generally followed.

How does ERP look at prevented planting losses?

Prevented planting carries through and is recalculated at the ERP factor (provided the damage date was 2020 or 2021 and it was reported).

- Basic Example:
  Crop Ins APH = 150
  Price = $4.00
  Coverage = 85%
  PP factor = 55%
  PP payment = 150 x 4 x 0.85 x 0.55 = $280.50/ac
  ERP Factor=95%
  ERP payment (before premium/fee accounted for) = 150 x $4.00 x 0.95 x 0.55 – $280.50 = $33/ac

Are grazing losses covered under ERP?

No, Pasture, Rangeland, Forage (PRF) grazing and Annual Forage (AF) acreage associated with grazing are not eligible under ERP. Grazing losses are considered feed losses, not crop production losses, which makes them ineligible to be paid by ERP.

Are haying losses covered under ERP?

PRF haying is eligible as well as those with AF that isn't associated with grazing. Producers should not certify that they are eligible if their AF payment was 100% associated with grazing. However, if part of their losses were associated with anything other than grazing, then they are eligible.

I received an application, but my insurance claim was not for one of the qualifying events. Do I need to have the claim corrected in order to receive my ERP payment?

No, if your crop insurance payment was associated with one of the qualifying events you may still be eligible to receive a payment. You are eligible for payment on any crop and unit that suffered a loss in whole or in part due to a qualifying event.

Are all counties eligible for payment even if they are not listed on the eligible drought list?

Yes. The exception is that if a producer is certifying to drought as the qualifying disaster event, the county must have been in a drought rated by the U.S. Drought Monitor as having a D2 (severe drought) for eight consecutive weeks or a D3 (extreme drought) or higher level at any point during the applicable calendar year. If a producer is certifying to any other qualifying disaster event, all counties are eligible.

If I my county did not qualify for drought based on the U.S. Drought Monitor am I automatically ineligible for ERP?

Not necessarily, producers should review all qualifying events such as excessive heat and related conditions. Producers that certify they had a qualifying event should be prepared to provide documentation that can substantiate their self-certification if they are reviewed during a spot check.

How are replanting payments handled?

Replanting payments are not eligible for ERP. Replanting payments paid to a producer are not included in the ERP payment calculation.

If a prevented planting claim in 2020 is tied back to 2019 floods, should it come through in Phase 1?

Qualifying disaster events must have occurred in Calendar Years 2020 or 2021. If the date of the loss is not in an eligible calendar year, the crop is not included in Phase 1. Producers may apply under Phase 2 if they believe they had a qualifying disaster event in one of the eligible calendar years.

I had a loss in 2020 and/or 2021, but it was not enough to trigger a crop insurance indemnity. Will I be covered in phase 2?

Phase 2 will compensate eligible producers not paid under Phase 1 for their eligible losses, including those that may have had crop insurance or NAP, but the loss was not large enough to trigger an indemnity and address any other gaps or areas impacted by the 2020 and 2021 qualifying natural disasters.

My application has an SBI listed with zero percent interest. Does this SBI have to sign to complete the application?

No. SBIs with zero percent interest do not need to sign the FSA-520.

How are joint ventures (JV) and general partnerships and other entity information separated? What am I supposed to put in the "share" box 13?

Primary policyholders that have matching records at FSA are listed as the applicant on the FSA-520 and the ERP payment is calculated based on the RMA share. If the shares for the entity are reported the same at RMA and FSA, the entity should enter 100% for the share in Box 13. If shares do not match between RMA and FSA, as in the case of a Husband/Wife Joint Venture where one member of the JV is listed as 100% share with RMA but was reported 50/50 to FSA, Box 13 should be completed by the applicant to match the FSA shares.

Did USDA reduce production when the harvest price is less than the projected price? In the previous WHIP versions, FSA did not account for price drops, so does that carry over to ERP?

ERP values production to count at the harvest price for Revenue Protection and Revenue Protection with the Harvest Price Exclusion.

Why is my estimated ERP payment greater than the indemnity amount I received through crop insurance?

ERP is not a top-up program and instead covers a portion of your crop insurance deductible. Indemnities that were previously paid to the producer are reduced by producer-paid premiums and fees before being subtracted from the payment amount.

Will my ERP estimate in item 11 of the FSA-520 form be the amount I receive?

Not necessarily. Item 11 on the FSA-520 reflects the calculated ERP benefit prior to any reductions, so it is the calculated payment based on the formula without any

adjustments. Reductions that apply to that number will include payment limitation reductions (note that the payment limitation of $125,000 will apply unless the producer files an FSA-510 that reflects that 75 percent of the adjusted gross income is due to farming, if so, non-specialty is $250,000 and specialty is $900,000), in addition, if a producer files a CCC-860 that indicates a producer is a historically underserved producer, (beginning, veteran, socially disadvantaged (including gender) or limited resource farmer or rancher), an additional 15 percent bump to the calculated ERP payment will apply. Lastly the 75 percent payment factor will apply, but additional payments may be provided if funds are available after ERP Phase 2.

If there is an error in my application, what is the process for correction? If the error is corrected, will I still receive a Phase 1 payment?

It depends on the nature of the "error." 2021 and 2022 crops that were omitted from an application because of pending supplemental policies (ECO, SCO, STAX and MP) will be covered in Phase 1 after indemnities have been calculated. Discrepancies in cause of loss dates that cause a crop to not appear will be handled in Phase 2. For other potential errors, the producer should contact their crop insurance agent or FSA county office.

I received a crop insurance indemnity in 2020 and 2021 but did not receive an application? What should I do?

Please visit your FSA office, and they will print a new application if the original was lost or undelivered.

When completing the FSA-520, what should I put in Box 13 if I am certifying to 100% of the payment? Should I enter 100% or leave it blank?

Share is assumed to be 100% to the primary policyholder unless otherwise designated; however, the primary policyholder may enter 100%, when applicable.

What should I do if I have an informal joint venture that uses my Tax ID Number for the entity, but none of the members of the entity appear as SBIs on the FSA-520?

In instances where informal joint ventures use the Tax ID Number of one of the members of the joint venture, the applicant's name will be matched to the FSA name. Because spousal provisions do not apply and the individuals may not be listed as SBIs on the FSA-520, it is acceptable for the primary policyholder to accept 100% of the ERP payment, provided that the payment is treated in a similar manner as other income and expenses for the informal joint venture. The producer also has the option of waiting for Phase 2 if they believe that there may be additional benefits, such as the historically underserved payment factor, available to individual members of the entity. However, there is risk associated with waiting until Phase 2 since there may be different eligibility criteria or payment factors applied to Phase 2 payments.

If a Transfer of Coverage took place, who receives the ERP application?

Due to how Transfer of Coverage data is stored, FSA treats transferees like an SBI on the FSA-520. While the ERP application will be mailed to the original primary policyholder, the transferee will be listed as an SBI on the application. The original primary policyholder can designate 100% of the ERP payment to the transferee and only the transferee is required to sign the FSA-520.

Are there appeal rights for Phase 1?

ERP Phase 1 is limited to the data included on the prefilled application. Phase 1 does not provide an option to update, revise, or change data except to identify shares for the primary policy holder and producers identified as an SBI on the application. There are no appeal rights for Phase 1 because there is no approval or disapproval of the application, only processing by FSA. If a producer completes the application and all signatures are provided for producers with a share in the crop(s), the

application is considered complete and is processed.

My cause of loss was for hail. Can I still get an ERP payment?

Yes, if hail was directly related to a qualifying disaster event. Qualifying disaster events include wildfires, hurricanes (including related excessive wind, storm surges, tornado, tropical storms, and tropical depression), floods (including related silt and debris), derechos (including related excessive wind), excessive heat, winter storms (including related blizzard and excessive wind), freeze (including a polar vortex), smoke exposure, excessive moisture, and qualifying drought occurring in calendar years 2020 and 2021. For example, if a producer's crop insurance claim was for hail damage but the damage was directly related to a tornado, then this would qualify for an ERP payment since tornado is a qualifying disaster event.

I understand that my cause of loss indicated for crop insurance does not have to match the qualifying disaster event exactly and that I will need to certify that I did in fact have a loss due to a qualifying disaster event and will need to be able substantiate that if I am spot checked. What kind of documentation will I need in such a review?

Participants are required to retain documentation in support of their ERP application for 3 years after the date of approval. All information provided to FSA for program eligibility and payment calculation purposes, including certification that a producer suffered a loss due to a qualifying disaster event is subject to spot check. FSA County Committees (COC) will facilitate spot-checks and consider local farming practices, weather conditions, and disaster events. As part of this process, the COC may request additional weather data or documentation to support the claimed losses.

What happens if an application is sent to a deceased producer?

For FSA to process an application for a deceased producer, it must first be signed by an authorized signatory. The payment can be issued using the Tax ID Number of the deceased individual or the individual’s estate, as applicable. An alternate payee may utilize an FSA-325 where the payment will be issued using the Tax ID Number of the deceased and a 1099 will be issued in the same manner.